

REMARKS

In the Office Action dated October 5, 2004, the Examiner rejoined all the claims as the generic claims were found to be allowable

The Examiner also rejected claims 1, 3, 4, 8-13, 15, 16 and 20 under the judicially created doctrine of obviousness-type double patenting "as being unpatentable over claims 1-5 of U.S. Patent No. 5,779,675." Specifically, the Examiner asserted that:

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of this application encompass the claims of the parent.

The Examiner also rejected claims 1-20 under the judicially created doctrine of obviousness-type double patenting "as being unpatentable over claims 1-15 of U.S. Patent No. 5,899,885." Specifically, the Examiner asserted that:

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of this application encompass the claims of the parent.

The Examiner further rejected claims 1-20 under the judicially created doctrine of obviousness-type double patenting "as being unpatentable over claims 8-19 of U.S. Patent No. 6,371,938." Specifically, the Examiner asserted that:

Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of this application encompass the claims of the parent.

Although Applicants respectfully disagree with the Examiner's rejection of claims under the doctrine of obvious-type double patenting as being unpatentable over each of U.S. Patent Nos. 5,779,675, 5,899,885 and 6,371,938, in the interest of expedient prosecution, Applicants have submitted herewith three terminal disclaimers to obviate the double patenting rejections. The appropriate fees associated with the terminal disclaimer also accompany this Response. The filing of the accompanying terminal disclaimers is not an admission of the propriety of the Examiner's double patenting rejections. The

Commission is hereby authorized to charge any deficiency or credit any overpayment to U.S. Deposit Account 02-1065. A duplicate of this Response is enclosed herewith.

The Examiner further indicated that "Claims 1-20 would be allowed if terminal disclaimers as suggested above were filed." Specifically, the Examiner indicated that:

The patent to Glass, US 2,627,279 is of note with the pivoting from members (figure 7) for use in x-ray dyes (column 1, line 12). However, the lower stationary part with aperture 6, and upper sliding part 21 with aperture 24 is not seen to "substantially enclose" the syringe as claimed. Lindquist, US 3,997,085 does not apply to the present claims (see 10/668,055) because they call for a syringe. Stiehl et al., US 5,078,698 is similar to the invention, however, pivotable jaws 20 and 22 cannot be considered a pressure jacket. Note is also made of applicant's comments set forth in US 5,779,675, particularly in regard to the pressure jacket.

In light of the above Remarks and the accompanying terminal disclaimers, Applicants thus respectfully requests that the Examiner indicate the allowability of Claims 1-20 and arrange for an official Notice of Allowance to be issued in due course.

Respectfully submitted,

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